

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Robert KOPETZKY *et al.*
Title: A DRIVE UNIT FOR A SAFETY BELT TENSIONER
Appl. No.: 10/076,270
Filing Date: February 19, 2002
Examiner: Scott J. HAUGLAND
Art Unit: 3654

REPLY BRIEF

Mail Stop APPEAL BRIEF-PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

The following remarks are responsive to the Examiner's Answer mailed on August 26, 2004 and supplement the Brief on Appeal filed May 5, 2004.

The rejections of claims 11-20 under 35 U.S.C. § 103(a) should be withdrawn because one of ordinary skill in the art would not have been motivated to combine the references; and even if Mitzkus and Wier were properly combined, the resultant combination would not teach or suggest each of the limitations of claims 11 or 20.

There is no dispute that "Mitzkus et al does not disclose a coating material on the facing sides of the plates." (Ex. Answer at p. 3). There is also no dispute that Wier fails to teach coating the facing surfaces of the plates " with a coating material configured to reduce the amount of gas that escapes through an interface between the edges of the drive band and the facing plate surfaces" as called for in claims 11 and 20. Despite the Examiner's urging that "Wier teaches that a seal ...may be improved by providing a coating on at least one of

the surfaces” (Examiner’s Answer at p. 5), Wier’s teaching is limited to coating a traction cable with wax or silicon. (Wier at col. 6, lines 1-6). Wier does not disclose coating plates. Weir only addresses waxing the cable to enhance its sealing ability. The waxing is used to reduce the variation in the outer surface of the cable as the cable “does not have a smooth external surface.” (Wier at col. 6, lines 5-6). Weir teaches nothing about coating plates that contact edges of a drive band, such as the flat belt 21 disclosed in Mitzkus. Thus, one of ordinary skill in the art would not even have considered Weir for teachings useful for modifying the structure of Mitzkus and for this reason alone, the rejection of claims 11 and 20 should be withdrawn.

Furthermore, even assuming *arguendo*, that Mitzkus and Wier could be properly combined, the combination would not teach or suggest the invention recited in claims 11 and 20. Wier only teaches waxing a cable. Thus, at best, the result of combining Wier and Mitzkus would result in waxing the belt 21 disclosed in Mitzkus, which would not render the claimed invention unpatentable. The Examiner states that “[i]t would have been obvious to include the coating material on the plates forming the chamber to ensure adequate material to maintain the desired seal throughout the range of motion of the band.” (Examiner’s Answer at p. 4). However, the Examiner has identified no evidence in the prior art that supports this motivation for coating the plates. As mentioned above, Wier only suggests coating the cable. The only evidence in the record that suggests coating the plates is contained in the present application (See, e.g., Application at p. 6 lines 4-12 and Fig. 3) which discloses the benefits of coating the plates due to movement of the drive band. Of course, any reliance on the present application would constitute impermissible hindsight reasoning.

Claims 12-19 depend from claim 11 and are allowable therewith, for at least the reasons set forth above, without regard to the further patentable limitations contained therein.

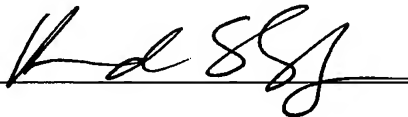
For at least the foregoing reasons, the Board of Patent Appeals and Interferences should withdrawn the rejections of claim 11-20.

The Patent Office is invited to contact the undersigned attorney of record at the telephone number set forth below if it is believed that a telephone conference might be useful in expediting prosecution or resolving any or all of the issues on appeal.

Respectfully submitted,

Date

10/14/2004



Customer Number: 22428
FOLEY & LARDNER LLP
3000 K Street, N.W.
Suite 500
Washington, D.C. 20007-5143

Howard N. Shipley
Registration No. 39,370

Frederic T. Tenney
Registration No. 47,131
Attorneys for Applicants

Telephone: (202) 672-5300
Facsimile: (202) 672-5399

SHOULD ADDITIONAL FEES BE NECESSARY IN CONNECTION WITH THE FILING OF THIS PAPER, OR IF A PETITION FOR EXTENSION OF TIME IS REQUIRED FOR TIMELY ACCEPTANCE OF SAME, THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE DEPOSIT ACCOUNT NO. 19-0741 FOR ANY SUCH FEES; AND APPLICANT(S) HEREBY PETITION FOR ANY NEEDED EXTENSION OF TIME.